



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

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*271 Cadman Plaza East  
Brooklyn, New York 11201*

April 23, 2020

**By ECF**

Honorable Rachel P. Kovner  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Chunn, et al., v. Warden Derek Edge*, Civil Action No. 20-cv-1590 (Kovner, J.)

Dear Judge Kovner:

As Petitioners informed the undersigned two hours ago that they intend to file an amended petition tonight, Respondent respectfully requests an extension of two-business days, from tomorrow until Tuesday, April 28, to file their anticipated motion to dismiss.

Approximately two hours ago, and one day before Respondent's motion to dismiss the Petition is due to be filed, Petitioners informed Respondent that they will be filing an Amended Petition "later today" in which Petitioners will name "two new petitioners" and update unspecified "statistics." Despite twenty-one days having elapsed from the date the Petition was filed, Respondent still communicated his consent for Petitioners' anticipated leave to amend the Petition.

In light of this afternoon's development, Respondent requested that Petitioners consent to have Respondent's deadline to file his motion to dismiss be extended for two business days, from tomorrow until Tuesday, April 28, 2020. Petitioners consent to this request, but also seek to modify the Court's scheduling order and extend Petitioners' deadline to oppose Respondent's motion to May 12, 2020 (the date this Court scheduled the preliminary injunction hearing), with Respondent's reply due on May 19, 2020. Respondent objects to this request.

Pursuant to Your Honor's Individual Practice Rule IV.A.1, Respondent did not request a pre-motion conference in connection with his anticipated motion to dismiss the Petitioners' habeas petition. But, as Respondent will set forth in his forthcoming motion, Respondent submits that this Court lacks subject matter jurisdiction over Petitioners' claims pursuant to Fed. Civ. P. 12(b)(1). Given the jurisdictional bar to the relief Petitioners seek, Respondent intends to file his reply in support of his motion to dismiss by May 12, 2020.

Accordingly, besides a 2-day extension on Respondent's motion to dismiss deadline due to Petitioners' anticipated amended complaint, no other modification is needed. Indeed, any delay to the briefing of the motion to dismiss is Petitioners' own doing, given that Respondent's motion to dismiss is due tomorrow and Petitioners first advised Respondent of their proposed amended petition approximately two hours ago, on the eve of the Respondent's due date.

Respondent thanks the Court for its consideration of this request.

Respectfully submitted,

RICHARD P. DONOGHUE  
United States Attorney

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cc: The Honorable Roanne L. Mann, U.S. Magistrate Judge  
All Counsel of Record (by ECF)